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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,739	02/18/2004	Abhishek Chauhan	2006579-0556	1672

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CHOATE, HALL & STEWART / CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

EXAMINER	
LANIER, BENJAMIN E	

ART UNIT	PAPER NUMBER
2132	

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07/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/782,739	CHAUHAN ET AL.	
	Examiner	Art Unit	
	Benjamin E. Lanier	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-44 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-44 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 6/25/04
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitation "the frequency of the attribute". There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-40 of Application No. 10/782,726 contain(s) every element of claims 1, 2, 5-17, 20, 21, 25, 27-32, 39-41, 44 of the instant application and as such are not patentably distinct from an earlier patent claim(s).

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus)." ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

"Claim 12 and Claim 13 are generic to the species of invention covered by claim 3 of the patent. Thus, the generic invention is "anticipated" by the species of the patented invention. Cf., Titanium Metals Corp. v. Banner, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985) (holding that an earlier species disclosure in the prior art defeats any generic claim). This court's predecessor has held that, without a terminal disclaimer, the species claims preclude issuance of the generic application. In re Van Ornum, 686 F.2d 937, 944, 214 USPQ 761, 767 (CCPA 1982); Schneller, 397 F.2d at 354. Accordingly, absent a terminal disclaimer, claims 12 and 13 were properly rejected under the doctrine of obviousness-type double patenting" (In re Goodman (CA FC) 29 USPQ2d 2010 (12/3/1993).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-6, 17-21, 32-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Xie, U.S. Patent No. 6,772,347. Referring to claims 1, 17, 32, Xie discloses a computer network firewall wherein initially denied packets are additionally filtered dynamically (Col. 5, lines 45-50 & Figure 6), which meets the limitation of extracting, from the rejected messages, attributes that triggered a rejection rule. The packets are initially denied based on counter rules that increment the count until a threshold is exceeded (Col. 5, lines 10-15), which meets the limitation of for each attribute, determining a frequency with which the messages having the attribute were rejected by the rejection rule. The dynamic filter, filters the initially denied packets using an additional set of rules, which are dynamically generated (Col. 5, lines 50-52), which meets the limitation of generating an exception rule to the rejection rule which rejected the messages with the attribute, responsive to the frequency of the attribute exceeding a threshold.

Referring to claims 2, 33, Xie discloses that the initially rejected packets can be allowed based on the newly generated rules used by the dynamic filter (Col. 5, lines 63-66), which meets the limitation of allowing a rejected message to pass according to the exception rule.

Referring to claims 3, 18, 34, Xie discloses that the dynamic filter generates rules using criteria such as port number and IP address, which are extracted from incoming packets (Col. 5, lines 52-55), which meets the limitations of identifying an attribute of the rejected message that

triggered a rejection rule, for the triggered rejection rule, identifying an exception rule that matches the attribute. The initially rejected packets can be allowed based on the newly generated rules used by the dynamic filter (Col. 5, lines 63-66), which meets the limitation of applying the exception rule to the rejection message to determine whether to allow the message.

Referring to claims 4, 19, 35, Xie discloses that the dynamic filter generates rules using criteria such as port number and IP address, which are extracted from incoming packets (Col. 5, lines 52-55), which meets the limitations of the attribute is one of a message component, a value.

Referring to claims 5, 6, 20, 21, 36, 37, Xie discloses that the packets are initially denied based on counter rules that increment the count until a threshold is exceeded (Col. 5, lines 10-15), which meets the limitation of the frequency is a weighted/direct count of occurrences of the attribute.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 7-15, 22-30, 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xie, U.S. Patent No. 6,772,347, in view of Balasubramanian, U.S. Publication No. 2005/0086206. Referring to claims 7, 8, 12, 13, 22, 26, 27, 30, 38, 39, 41, 42, Xie discloses filtering packets using rules based on port number and IP address (Col. 5, lines 58-60). The rules can be stored in a memory (Col. 4, lines 5-8), which meets the limitation of a trie structure, wherein each node in the trie is associated with a component. Xie does not specify filtering based on URLs and URL descendants. Balasubramanian discloses a rule based filtering system where URL requests are filtered at the domain and IP address level, based on rules, to allow/deny traffic for all domains beginning with identified IP address information ([0056] & [0065]-[0067]), which meets the limitation of maintaining a frequency for each instance of a URL component, wherein the frequency is a function of a number of occurances with which a URL component and its descendants were rejected by a rule, selecting a URL component according to a set of constraints, and generating an exception rule for the selected URL component and its descendants, the exception rule is generated by inferencing a scalar data type of the descendants of the selected URL component. It would have been obvious to one of ordinary skill in the art at the time the invention was made to dynamically filter the packets of Xie using domain and IP address rules, as taught in Balasubramanian, in order to control access to specific areas in web space as taught by Balasubramanian (0016]).

Referring to claims 9-11, 14, 15, 23-25, 28, 29, 40, 43, Xie discloses that the packets are initially denied based on counter rules that increment the count until a threshold is exceeded (Col. 5, lines 10-15), which meets the limitation of constraints selected with a frequency exceeding a threshold and having no children with a frequency above the threshold. Xie

discloses filtering packets using rules based on port number and IP address (Col. 5, lines 58-60), but does not specify filtering based on URLs and URL descendants. Balasubramanian discloses a rule based filtering system where URL requests are filtered at the domain and IP address level, based on rules, to allow/deny traffic for all domains beginning with identified IP address information ([0056] & [0065]-[0067]), which meets the limitation of the function is an aggregate of a number of occurances with which the URL component was rejected by a rule and the number of occurrences with which descendants of the URL component were rejected by the rule. It would have been obvious to one of ordinary skill in the art at the time the invention was made to dynamically filter the packets of Xie using domain and IP address rules, as taught in Balasubramanian, in order to control access to specific areas in web space as taught by Balasubramanian (0016]).

11. Claims 16, 31, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xie, U.S. Patent No. 6,772,347, in view of Chelsa, U.S. Publication No. 2004/0250124. Referring to claims 16, 31, 44, Xie discloses that the packets are initially denied based on counter rules that increment the count until a threshold is exceeded (Col. 5, lines 10-15). The dynamic filter, filters the initially denied packets using an additional set of rules, which are dynamically generated (Col. 5, lines 50-52). Xie does not disclose dynamically generated rules when it is determined that packet denial is greater than a desired threshold amount. It would have been obvious to one of ordinary skill in the art to dynamically generate exceptions for the dynamic filter of Xie based on a desired amount of allowable packets in order to minimize the blocking of legitimate traffic as taught be Chelsa ([0017]).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McClain, U.S. Patent No. 6,772,214

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E. Lanier whose telephone number is 571-272-3805. The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin E. Lanier